

Message Text

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ACTION DLOS-07

INFO OCT-01 ARA-16 EUR-25 IO-14 ISO-00 CG-00 DOTE-00

CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-07

PA-04 RSC-01 PRS-01 SP-03 SS-20 USIA-15 CEQ-02 COA-02

COME-00 EB-11 EPA-04 NSF-04 SCI-06 FEA-02 ACDA-19

AEC-11 AGR-20 FMC-04 INT-08 JUSE-00 OMB-01 DRC-01

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R 302041Z APR 74

FM AMEMBASSY MONTEVIDEO

TO SECSTATE WASHDC 6432

INFO AMEMBASSY BRAZILIA

AMEMBASSY CARACAS

AMEMBASSY LONDON

AMEMBASSY MADRID

AMEMBASSY PANAMA

AMEMBASSY PARIS

AMEMBASSY SAN SALVADOR

USMISSION USUN NY

C O N F I D E N T I A L MONTEVIDEO 1131

E.O. 11652: GDS

TAGS: PBOR, ES

SUBJ: LOS CONSULTATIONS WITH EL SALVADOR

1. FOLLOWING BRIEFING AND CONSULTATION WITH EMBASSY, TEAM MET
WITH SALVADORIAN LOS EXPERTS APRIL 23 IN FONMIN OFFICES. PRESENT
WERE:

DR. RICHARDO CASTANEDA: SUB-SECRETARY OF FOREIGN RELATIONS

DR. ALFREDO MARTINEZ-MORENO: LEGAL ADVISOR TO FORMIN (LOS EXPERT)

DR. JOSE LUIS LOVO-CASTELAR: DIRECTOR OF INTERNATIONAL ORGANIZATIONS

DR. JOSE ROBERTO NOLASCO: ADVISOR TO DIRECTOR GENERAL OF FOREIGN

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POLICY

DR. GUILLERMO TRIGUEROS: TECHNICAL ADVISOR TO FORMIN
DR. JOSE ANTONIO RODRIQUEZ-PORTH: LEGAL ADVISOR TO FORMIN

SALVADORIANS WELL PREPARED AND HAD OBVIOUSLY GIVEN CONSIDERABLE TIME AND EFFORT TO STUDYING US POSITION. MARTINEZ-MONENO MOST ARTICULATE AND WELL VERSED OF SALVADORIANS, AND ALONG WITH CASTANEDA PRESENTED MOST OF THEIR VIEWS. MEETING PROCEEDED ACCORDING TO AGENDA PREPARED BY SALVADORIANS WITH FOLLOWING POINTS DISCUSSED:

A. PROCEDURAL ISSUE: GOES AGREES THAT IT WILL BE IMPORTANT TO MOVE CARACAS SESSION DIRECTLY INTO SUBSTANTIVE NEGOTIATIONS. THEY ALSO AGREED WITH IMPORTANCE OF REACHING A BROADLY ACCEPTED AGREEMENT AND OF AVOIDING PREMATURE VOTING. MARTINEZ-MORENO COMMENTED THAT "SOME DELEGATES LACK NECESSARY MATURITY, AND WE MUSTN'T LET THEM GAIN CONTROL, AND THAT GOVERNMENTS MUST 'NEGOTIATE' TO REACH AGREEMENT RATHER THAN PROTECTING THEIR POSITIONS." CONCERNING OUR PROPOSAL TO MODIFY THE RULES OF PROCEDURE, GOES IS CONCERNED LEST THIS SET A PRECEDENT FOR FUTURE CONFERENCES. SUBSEQUENT DISCUSSION REVEALED THAT ONE OF THEIR PRIME CONCERNS IS WITH THE EFFECT OF AN ABSTENTION IS THE EQUIVALENT OF A NEGATIVE VOTE. THE DEPTH OF THEIR CONCERN SEEMS TO INDICATE THAT GOES MAY BE CONTEMPLATING EXTENSIVE TACTICAL USE OF ABSTENTION ON KEY ISSUES SUCH AS STRAITS.

B. PROVISIONAL APPLICATION - GOES INDICATED THAT THEY MAY HAVE CONSTITUTIONAL PROBLEMS IN ACCEPTING P/A, ALTHOUGH THEY ARE IN FAVOR OF IT AND WOULD LIKE TO APPLY IT. AGAIN, POINT WAS IMPLICITLY MADE THAT GOES CANNOT VOTE IN FAVOR OF ANY PROPOSAL WHICH VIOLATES, IN THEORY OR IN FACT, THEIR CONSTITUTION. TRIGUEROS HAS BEEN COMMISSIONED BY GOES TO STUDY THEIR PROBLEM AND ATTEMPT TO DEVISE MEANS OF ACCEPTANCE WITHIN THE FRAMEWORK OF THEIR CONSTITUTION. THEY ARE OF OPINION THAT THEY CAN ENACT DOMESTIC LEGISLATION WHICH WILL ALLOW THEM TO IMPLEMENT THE TREATY "PRINCIPLES, BUT NOT THE REGULATION." MARTINEZ MORENO CONCERNED ABOUT RELATIONSHIP BETWEEN PROVISIONAL APPLICATION AND VIENNA LAWS OF TREATY CONVENTION, AND IMPLIED POSSIBLE INCONSISTENCY. HE SEEMED IMPRESSED BY OUR ARGUMENT THAT, TO THE CONTRARY, PROVISIONAL APPLICATION IS CONSISTENT WITH PROVISIONS OF VIENNA CONVENTION REGARDING BEHAVIOR OF STATES IN PERIOD BETWEEN SIGNATURE AND RATIFICATION.

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C. COMPULSORY DISPUTE SETTLEMENT - GOES OFFICIALS, ALTHOUGH THEY PERSONALLY ENDORSED CDS, INDICATED THAT THEY WOULD HAVE CONSTITUTIONAL PROBLEMS IN IMPLEMENTING IT. THEY WERE STRONGLY IN FAVOR OF PRIVATE PARTY SUITS IN THE CDS FRAMEWORK, BUT INDICATED SOME CONCERN OVER THE COST OF THIS, AS WELL AS COST TO SMALL COUNTRIES OF CDS SUITS IN GENERAL. WE SAID WE WOULD WELCOME PROPOSALS ON THE COST PROBLEM.

C. FISHERIES - ASIDE FROM REFERENCE TO US REP'S POSITION IN
IAJC, GOES DID NOT DISCUSS FISHERIES IN ANY DETAIL.

E. STRAITS - GOES MOVED INTO STRAITS ISSUE BY ASKING POINTEDLY
IF US WOULD ENDORSE 200-MILE EXCLUSIVE RESOURCE ZONE IN EXCHANGE
FOR ACCOMMODATION ON STRAITS AND SAID LDC'S UNDERSTAND THIS AS
BASIC TRADE OF NEGOTIATION. MARTINEZ-MORENO MADE POINT SEVERAL
TIMES THAT IF US WOULD APPROACH SPAIN IN CORRECT FASHION WE COULDS
DEFUSE ISSUE. HE VENTURED OPINION THAT SPAIN ACTUALLY CONCERNED
OVER ANOTHER PALOMARES TYPE INCIDENT, PERHAPS WITH A NUCLEAR ACCIDENT
OR SERIOUS OIL SPILL IN AREA OF GIBRALTAR. AT ONE POINT GOES INDI-
CATED THAT THEIR OWN ENDORSEMENT OF SPANISH STRAITS POSITION WAS
DIRECT TRADE-OFF FOR SPANISH RECOGNITION OF "200 MILE JURISDICTION."

F. TERRITORIAL SEA - GOES OBVIOUSLY AGITATED OVER THEIR 200
MILE TERRITORIAL SEA POSITION AND OPENED DISCUSSION BY STATING THEY
WERE TRYING TO FIND A "WAY OUT." THEY STATED THEIR BELIEF THAT
A 200 MILE TERRITORIAL SEA IS UNATTAINABLE, AND AS REALISTS THEY
ARE LOOKING AHEAD TO FIND SOME WAY THE GOES CAN ACCEPT A
RESOURCE ZONE, WHICH IS THE PROBABLY OUTCOME OF THE CONFERENCE
AS THEY SEE IT. THEY STATED GALINDO POHL HIMSELF IS WORKING A
THEORETICAL INTERPRETATION OF THEIR CONSTITUTION WHICH WOULD ENABLE
THEM TO DO THIS, BUT CITED STRONG PUBLIC OPINION, THE OPINION OF
NON-GOVERNMENT LAWYERS, AND "THE ARMY" AS FORCES WHICH MAY
OPPOSE THESE EFFORTS ON GROUNDS OF COMPROMISING NATIONAL
SOVEREIGNTY. THE "IRREDUCIBILITY OF NATIONAL TERRITORY" HAS BECOME
A NATIONAL CREED, AND THEY ANTICIPATE GREAT PROBLEMS IN THIS
REGARD; EMBASSY POINTS OUT THAT THEY CITE THIS CLAUSE OF CONSTI-
TUTION AS BASIS FOR REFUSAL TO NEGOTIATE TERRITORIAL COMPROMISES
WITH HONDURAS. ALL OF GOES REMARKS WERE DIRECTED TOWARD
"ACCEPTANCE" OF A RESOURCE ZONE, AND TEAM OF OPINION THAT THEY
MAY MAINTAIN THEIR PRESENT POSITION AND SIMPLY BE OUT VOTED AT THE
CONFERENCE. HOWEVER, WE DO NOT BELIEVE THEY WILL BE DISRUPTIVE,
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AND MAY IN FACT TRY TO BE HELPFUL ON SUBSTANCE OF ISSUES THAT DO NOT
INVOLVE VOCABULARLY INCOMPATIBLE WITH TERRITORIAL SEA.

G. POLLUTION AND SEABEDS - GOES NON-COMMITTAL ON THESE
ISSUES, ALTHOUGH THERE WAS SOME BRIEF DISCUSSION.

H. MARINE SCIENCE - MARTINEZ-MORENO INDICATED THAT HE HAD
PRIVATELY DISCUSSED THIS ISSUE WITH "THOSE DESIRING CONSENT" AND
FELT THAT THEY COULD BE BROUGHT AROUND IF "APPROACHED CORRECTLY."
HE SPECIFICALLY FELT THAT MEASURES TO ENSURE THAT ALL
OF MANKIND WOULD SHARE IN THE BEN
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